

Remarks

The instant Office Action dated November 20, 2007 indicated the following rejections: claims 1-6 and 9-12 stand rejected under 35 U.S.C. § 102(b) over Chen (U.S. Patent No. 6,130,129), and that claims 7-8 stand rejected under 35 U.S.C. § 103(a) over Chen.

Applicant respectfully submits that the § 102(b) rejection of claims 1-6 and 9-12 and the § 103(a) rejection of claims 7-8 cannot stand because the cited portions of the Chen reference do not correspond to the claimed invention. As a first example, the cited portions of Chen do not teach first forming isolation zones in the substrate, thereafter depositing a floating gate layer over the substrate and the isolation zones, and then etching the floating gate layer to form the floating gate. In contrast, the cited portions of Chen teach that poly-1 layer 12 is formed on substrate 1 as part of stacked multilayer 10, which is subsequently etched to form towering structure 20 and recess/trench 21. The field oxide layer 22 is then deposited in recess 21. *See, e.g.*, Figures 1-4 and Col. 5:20-47. Thus, Chen teaches first depositing poly-1 layer 12 and then forming FOX region 22, instead of first forming the isolation zones and then depositing the floating gate layer over the substrate and the isolation zones as in the claimed invention.

As a second example, the cited portions of Chen do not correspond to aspects of the claimed invention directed to forming recesses in the isolation zones that extend below the surface of the substrate (*see, e.g.*, claim 2). More specifically, Chen does not teach that any recesses that extend below the surface of substrate 1 are formed in FOX region 22. *See, e.g.*, Figures 3-6. As a third example, the cited portions of Chen do not correspond to aspects of the claimed invention directed to forming the conductive spacers on the opposite walls of the floating gate and on the walls of the recesses in the two isolation zones (*see, e.g.*, claim 4). Chen's spacers 24 cannot be formed on the walls of the recesses in FOX region 22 because there are no corresponding recesses in FOX region 22.

In view of the above, the cited portions of the Chen reference do not correspond to the claimed invention. Accordingly, Applicant requests that the § 102(b) rejection of claims 1-6 and 9-12 and the § 103(a) rejection of claims 7-8 be withdrawn.

Applicant respectfully traverses the § 103(a) rejection of claims 7 and 8 because the Examiner has provided no evidence of motivation to modify the Chen reference. This

approach is contrary to the requirements of § 103 and relevant law. *See, e.g., KSR Int'l Co. v. Teleflex Inc.*, 127 S. Ct. 1727, 1741 (U.S. 2007) (“A patent composed of several elements is not proved obvious merely by demonstrating that each element was, independently, known in the prior art.”). In view of Applicant’s remarks presented in the Final Office Action Response dated January 3, 2008, hereby incorporated by reference in its entirety, the § 103(a) rejection of claims 7 and 8 is improper and Applicant requests that it be withdrawn.

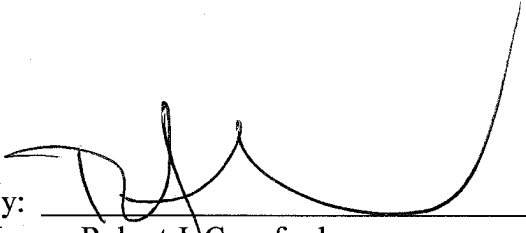
Applicant has added new claims 19-20, which depend from claim 1, and new claims 21-25. Applicant respectfully submits that new claims 19-25 are allowable over the Chen reference for at least the reasons discussed above.

In view of the remarks above, Applicant believes that each of the rejections has been overcome and the application is in condition for allowance. Should there be any remaining issues that could be readily addressed over the telephone, the Examiner is asked to contact the agent overseeing the application file, Peter Zawilski, of NXP Corporation at (408) 474-9063 (or the undersigned).

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